

Docket No. KM-FLEX-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of           Mansmann                         )  
Serial No. 10/071,930   ) Examiner: K.R. Landrem  
Filed February 8, 2002   ) Group Art Unit: 3738

Title: CARTILAGE REPAIR IMPLANT WITH SOFT BEARING SURFACE  
AND FLEXIBLE ANCHORING DEVICE

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## CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: MS PETITIONS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on 31 December 2004.

**Name of Registered Representative:** Patrick D. Kelly

Signature:

Date:

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## ELECTION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

In response to a restriction requirement in the above-identified application, Applicant hereby elects the claims that read on "Species A" (i.e., multi-component devices).

Applicant respectfully traverses the restriction requirement, and points out two factors: (1) a first substantive action was already issued (by a prior examiner), and it was responded to by the undersigned; and, (2) it is not clear or apparent how or why an apparently arbitrary distinction was made by the Examiner who has now taken over for the previous examiner.

The nature of the complete implant device will require it to remain inside a repaired

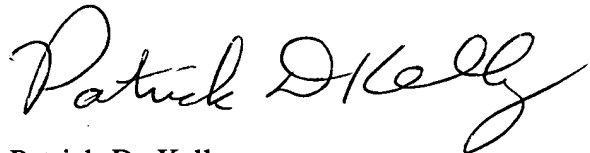
joint for years or even decades, in a way that cannot and must not come apart. Also, all claims relate to surgical implants, and do not attempt to cover methods of installing such implants (or even "kits" for assembling an implant). Therefore, it is not seen how or why the particular steps of assembly are crucial to any of the independent claims, regardless of whether they occur outside a joint, or inside a joint.

If the examiner is aware of any art that reads on one of the species, but not the other species, then she is requested to cite and disclose that art, to the undersigned attorney and the applicant. Without having seen or considered any such art, it is presumed by the undersigned that any such art, if it "read on" either of the species, would almost certainly "read on" both species.

Despite this traversal, the Applicant and the undersigned want and need to move forward, and will work with the Examiner in any way possible. Accordingly, as requested, the claims that read on the elected species (i.e., multicomponent devices) include Claims 13-18 (all of claims 1-12 were cancelled, in the reply to the first substantive action, and are no longer pending), and 20-29. The only claims that do NOT read on multi-component devices are claims 19 and 30.

If any questions arise, please contact the undersigned attorney at 314-822-8558.

Respectfully submitted,

A handwritten signature in black ink, reading "Patrick D. Kelly". The signature is fluid and cursive, with the first name "Patrick" being more prominent than the last name "Kelly".

Patrick D. Kelly  
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